

Executive Summary – Enforcement Matter – Case No. 49052

EnAqua Solutions, LLC

RN106555832

Docket No. 2014-1070-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Cat Kenedy SWD Facility, located 5.1 miles west of Kenedy, on the southwest corner of Farm-to-Market Road 2102 and County Road 165, Karnes County

Type of Operation:

Salt water disposal site

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: November 14, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$18,375

Amount Deferred for Expedited Settlement: \$3,675

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$7,350

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$7,350

Name of SEP: Railroad Commission of Texas (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - N/A

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

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RN106555832
Docket No. 2014-1070-AIR-E

Investigation Information

Complaint Date(s): February 14, 2014

Complaint Information: Alleged there were strong offensive odors coming from the Respondent's property.

Date(s) of Investigation: January 3, 2014 through July 14, 2014

Date(s) of NOE(s): July 18, 2014

Violation Information

Failed to prevent nuisance odor conditions. Specifically, strong, offensive crude oil and produced water odors that were a result from operations were documented by TCEQ staff downwind of the Site on February 19, 2014; strong offensive odors were documented by citizen collected evidence on March 1, 7, 11, 13, 17, 18, 28, 30, and 31, 2014; and very strong, highly offensive odors were documented by citizen collected evidence on March 15, 21, 22, and 27, 2014 [30 TEX. ADMIN. CODE § 101.4 and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).
2. The Order will also require the Respondent to:
 - a. Immediately, address emission sources, cease using the secondary containment for storage of spills/overflows or for any other waste management activities, and facilitate the removal of any incidental spills as soon as practicable, but no later than eight (8) hours after occurrence.
 - b. Within 15 days, submit written certification demonstrating compliance with a.
 - c. Within 15 days, address emission sources, submit a plan for review and approval to the Executive Director that identifies all potential sources of odor and nuisance conditions, and provides actions to abate the sources of the odor and dust nuisance including but not limited to, the following:
 - i. The incorporation of best management practices to control the odor and dust nuisance at the sources (such as elimination of storage of spills/overflows in the secondary containment, ensuring all hatches on trucks are properly closed after off-loading trucks,

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RN106555832

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securing hatches and valves on tanks, removing the roll-off container holding the contents of the mud pots from the Site and properly disposing the contents of the roll-off container at an authorized facility, and repairing and/or replacing leaking fugitive components), by maintaining and properly operating emission control equipment, and providing signage at the truck loading and off-loading area on how to properly load and off-load trucks to ensure emissions are being captured while providing oversight of these activities;

ii. Identification, refinement, or elimination of processes at the Site that contribute to odor and dust nuisance including regular quantitative testing of received waters using Environmental Protection Agency approved analytical test method(s) from trucks, from pipelines, and in storage tanks;

iii. Training of staff in best management practices to include the testing of received water and associated potential emissions, dust suppression protocols, and limiting the use of secondary containment for incidental spills and ensure that the containment area is cleaned as soon as practicable, but no longer than eight (8) hours after a spill occurs; and

iv. A timeframe for implementation and completion of corrective action(s). The plan shall be submitted to the San Antonio Regional Office and a copy to the Enforcement Division.

d. Immediately upon approval of the plan, begin implementing the approved plan in accordance with the approved implementation schedule.

e. Within 60 days, submit written certification demonstrating that the Site is operating in accordance with all conditions, with the general requirements, and with the recordkeeping requirements.

f. Within 30 days after fully implementing the approved plan, submit a final report for review and approval to the San Antonio Regional Office and a copy to the Enforcement Division which summarizes the actions taken and their effectiveness in abating odor and dust nuisance conditions at the Site. The report shall include written certification that the plan was implemented as approved.

g. The written certifications required by b., e., and f. demonstrating compliance.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

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Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Carol McGrath, Enforcement Division,
Enforcement Team 5, MC R-13, (210) 403-4063; Candy Garrett, Enforcement Division,
MC 219, (512) 239-1456

TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division,
MC 219, (512) 239-3565

Respondent: Fred Toney, CEO, EnAqua Solutions, LLC, 2200 Ross Avenue, Suite
3838, Dallas, Texas 75201

Kami Adkins, Vice President Administration, EnAqua Solutions, LLC, 2200 Ross
Avenue, Suite 3838, Dallas, Texas 75201

Respondent's Attorney: N/A

Attachment A
Docket Number: 2014-1070-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	EnAqua Solutions, LLC
Penalty Amount:	Fourteen Thousand Seven Hundred Dollars (\$14,700)
SEP Offset Amount:	Seven Thousand Three Hundred Fifty Dollars (\$7,350)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Railroad Commission of Texas
Project Name:	<i>Alternative Fuels Clean School Bus Replacement Program</i>
Location of SEP:	Statewide, Preference for Karnes County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Railroad Commission of Texas** for the *Alternative Fuels Clean School Bus Replacement Program*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the contribution will be used to reduce nitrogen oxides, volatile organic compounds, carbon monoxide, and particulate matter emissions by replacing older diesel buses with newer buses that meet more stringent emission standards.

The Third-Party Administrator shall use the SEP Offset Amount for up to 100% of the purchase price of a propane or natural gas powered school bus that is model year 2010 or newer to public school districts and public charter schools to replace a diesel school bus that is model year 2002 or older. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used for the direct cost of implementing the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions which contribute to the formation of ozone and may cause or exacerbate a number of respiratory diseases, including asthma. In addition, by encouraging less school bus idling, this SEP contributes to public awareness of environmental matters.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Railroad Commission of Texas SEP** and shall mail the contribution with a copy of the Agreed Order to:

Alternative Energy Division
Railroad Commission of Texas
P.O. Box 12967
Austin, Texas 78711-2967

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount due to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

EnAqua Solutions, LLC
Agreed Order - Attachment A

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. **Failure to Fully Perform**

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality;" and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. **Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent, must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. **Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ
DATES

Assigned
PCW

21-Jul-2014
29-Jul-2014

Screening

29-Jul-2014

EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent EnAqua Solutions, LLC

Reg. Ent. Ref. No. RN106555832

Facility/Site Region 13-San Antonio

Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No. 49052

Docket No. 2014-1070-AIR-E

Media Program(s) Air

Multi-Media

No. of Violations 1

Order Type 1660

Government/Non-Profit No

Enf. Coordinator Carol McGrath

EC's Team Enforcement Team 5

Admin. Penalty \$ Limit Minimum

\$0

Maximum

\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$17,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History

5.0%

Enhancement

Subtotals 2, 3, & 7 \$875

Notes

Enhancement for one NOV with same/similar violations.

Culpability

No

0.0%

Enhancement

Subtotal 4 \$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments

Subtotal 5 \$0

Economic Benefit

Total EB Amounts \$430

Estimated Cost of Compliance \$8,000

0.0% Enhancement*

*Capped at the Total EB \$ Amount

Subtotal 6 \$0

SUM OF SUBTOTALS 1-7

Final Subtotal \$18,375

OTHER FACTORS AS JUSTICE MAY REQUIRE

0.0%

Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$18,375

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$18,375

DEFERRAL

20.0%

Reduction

Adjustment -\$3,675

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$14,700

Screening Date 29-Jul-2014

Docket No. 2014-1070-AIR-E

PCW

Respondent EnAqua Solutions, LLC

Policy Revision 4 (April 2014)

Case ID No. 49052

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106555832

Media [Statute] Air

Enf. Coordinator Carol McGrath

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for one NOV with same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 5%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 5%

Screening Date 29-Jul-2014

Docket No. 2014-1070-AIR-E

PCW

Respondent EnAqua Solutions, LLC

Policy Revision 4 (April 2014)

Case ID No. 49052

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106555832

Media [Statute] Air

Enf. Coordinator Carol McGrath

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 101.4 and Tex. Health & Safety Code § 382.085(a) and (b)

Violation Description

Failed to prevent nuisance odor conditions. Specifically, strong, offensive crude oil and produced water odors that were a result from operations were documented by TCEQ staff downwind of the Site on February 19, 2014; strong offensive odors were documented by citizen collected evidence on March 1, 7, 11, 13, 17, 18, 28, 30, and 31, 2014; and very strong, highly offensive odors were documented by citizen collected evidence on March 15, 21, 22, and 27, 2014.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			X
Potential			

Percent 5.0%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 14

14 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$17,500

Fourteen single events are recommended for each day a nuisance odor was documented.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$17,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$430

Violation Final Penalty Total \$18,375

This violation Final Assessed Penalty (adjusted for limits) \$18,375

Economic Benefit Worksheet

Respondent EnAqua Solutions, LLC

Case ID No. 49052

Reg. Ent. Reference No. RN106555832

Media Air

Violation No. 1

Percent Interest 5.0

Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$8,000	19-Feb-2014	18-Mar-2015	1.07	\$430	n/a	\$430

Notes for DELAYED costs

Estimated cost to implement measures designed to prevent nuisance odor conditions. The Date Required is the first date a nuisance was documented. The Final Date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$8,000

TOTAL

\$430



Compliance History Report

PUBLISHED Compliance History Report for CN604393546, RN106555832, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator: CN604393546, EnAqua Solutions, LLC

Classification: NOT APPLICABLE

Rating: N/A

Regulated Entity: RN106555832, CAT KENEDY SWD FACILITY

Classification: SATISFACTORY

Rating: 2.40

Complexity Points: 4

Repeat Violator: NO

CH Group: 09 - Construction

Location: 5.1 MILES WEST OF KENEDY ON THE SOUTHWEST CORNER OF FM 2102 AND COUNTY ROAD 165, KARNES COUNTY

TCEQ Region: REGION 13 - SAN ANTONIO

ID Number(s):

AIR NEW SOURCE PERMITS REGISTRATION 107044

Compliance History Period: September 01, 2008 to August 31, 2013

Rating Year: 2013

Rating Date: 09/01/2013

Date Compliance History Report Prepared: August 06, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: August 06, 2009 to August 06, 2014

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Carol McGrath

Phone: (210) 403-4063

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date:	01/21/2014	(1128841)	CN604393546
	Self Report?	NO		Classification: Moderate
	Citation:	30 TAC Chapter 101, SubChapter A 101.4		

Description: 5C THSC Chapter 382.085(b)
30 TAC Chapter 101.4 - Nuisance "No person shall discharge from any source whatsoever one or more air contaminants or combinations thereof, in such concentration and of such duration...to adversely affect human health or welfare, animal life, vegetation, or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property". During the investigation conducted on October 30, 2013, it was determined that the facility failed to prevent a nuisance condition.

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
EN AQUA SOLUTIONS, LLC
RN106555832**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2014-1070-AIR-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding EnAqua Solutions, LLC ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a salt water disposal site located 5.1 miles west of Kenedy, on the southwest corner of Farm-to-Market Road 2102 and County Road 165, in Karnes County, Texas (the "Site").
2. The Site consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about July 23, 2014.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Eighteen Thousand Three Hundred Seventy-Five Dollars (\$18,375) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Seven Thousand Three

Hundred Fifty Dollars (\$7,350) of the administrative penalty and Three Thousand Six Hundred Seventy-Five Dollars (\$3,675) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Seven Thousand Three Hundred Fifty Dollars (\$7,350) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Site, the Respondent is alleged to have failed to prevent nuisance odor conditions, in violation of 30 TEX. ADMIN. CODE § 101.4 and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b), as documented during an investigation conducted from January 3, 2014 through July 14, 2014. Specifically, strong, offensive crude oil and produced water odors that were a result from operations were documented by TCEQ staff downwind of the Site on February 19, 2014; strong offensive odors were documented by citizen collected evidence on March 1, 7, 11, 13, 17, 18, 28, 30, and 31, 2014; and very strong, highly offensive odors were documented by citizen collected evidence on March 15, 21, 22, and 27, 2014.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: EnAqua Solutions, LLC, Docket No. 2014-1070-AIR-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I Paragraph 6 above, Seven Thousand Three Hundred Fifty Dollars (\$7,350) of the assessed administrative penalty shall be offset with the condition that the SEP defined in Attachment A, incorporated herein by reference, is implemented by the Respondent. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, to address emission sources, cease using the secondary containment for storage of spills/overflows or for any other waste management activities, and facilitate the removal of any incidental spills as soon as practicable, but no later than eight (8) hours after occurrence;
 - b. Within 15 days after the effective date of this Agreed Order, submit written certification demonstrating compliance with Ordering Provision No. 3.a., as described in Ordering Provision No. 3.g.;
 - c. Within 15 days after the effective date of this Agreed Order, to address emission sources, submit a plan for review and approval to the Executive Director that identifies all potential sources of odor and nuisance conditions, and provides actions to abate the sources of the odor and dust nuisance including, but not limited to, the following:
 - i. The incorporation of best management practices to control the odor and dust nuisance at the sources (such as elimination of storage of spills/overflows in the secondary containment, ensuring all hatches on trucks are properly closed after off-loading trucks, securing hatches and valves on tanks, removing the roll-off container holding the contents of

the mud pots from the Site and properly disposing the contents of the roll-off container at an authorized facility, and repairing and/or replacing leaking fugitive components), by maintaining and properly operating emission control equipment, in accordance with 30 TEX. ADMIN. CODE § 106.4(c), and providing signage at the truck loading and off-loading area on how to properly load and off-load trucks to ensure emissions are being captured while providing oversight of these activities;

- ii. Identification, refinement, or elimination of processes at the Site that contribute to odor and dust nuisance including regular quantitative testing of received waters using Environmental Protection Agency approved analytical test method(s) from trucks, from pipelines, and in storage tanks;
- iii. Training of staff in best management practices to include the testing of received water and associated potential emissions, dust suppression protocols, and limiting the use of secondary containment for incidental spills and ensure that the containment area is cleaned as soon as practicable, but no longer than eight (8) hours after a spill occurs; and
- iv. A timeframe for implementation and completion of corrective action(s).

The plan shall be submitted to the San Antonio Regional Office and a copy to the Enforcement Division at the addresses in Ordering Provision No. 3.g.

- d. Immediately upon approval of the plan, begin implementing the approved plan in accordance with the approved implementation schedule;
- e. Within 60 days after the effective date of this Agreed Order, submit written certification demonstrating that the Site is operating in accordance with all conditions of Permits by Rule 30 TEX. ADMIN. CODE §§ 106.351 and 106.352, with the general requirements under 30 TEX. ADMIN. CODE § 106.4, and with the recordkeeping requirements under 30 TEX. ADMIN. CODE § 106.8, as described in Ordering Provision No. 3.g.;
- f. Within 30 days after fully implementing the approved plan, submit a final report for review and approval to the San Antonio Regional Office and a copy to the Enforcement Division at the addresses in Ordering Provision No. 3.g. which summarizes the actions taken and their effectiveness in abating odor and dust nuisance conditions at the Site. The report shall include written certification that the plan was implemented as approved; and
- g. The written certifications required by Ordering Provision Nos. 3.b., 3.e., and 3.f. shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. The certifications shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on

my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

With a copy to:

Air Section Manager
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director


5/8/15
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

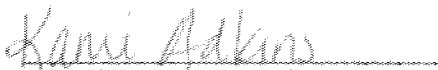
I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

April 15, 2015
Date


Name (Printed or typed)
Authorized Representative of
EnAqua Solutions, LLC

VP Administration
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2014-1070-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	EnAqua Solutions, LLC
Penalty Amount:	Fourteen Thousand Seven Hundred Dollars (\$14,700)
SEP Offset Amount:	Seven Thousand Three Hundred Fifty Dollars (\$7,350)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Railroad Commission of Texas
Project Name:	<i>Alternative Fuels Clean School Bus Replacement Program</i>
Location of SEP:	Statewide, Preference for Karnes County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Railroad Commission of Texas** for the *Alternative Fuels Clean School Bus Replacement Program*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the contribution will be used to reduce nitrogen oxides, volatile organic compounds, carbon monoxide, and particulate matter emissions by replacing older diesel buses with newer buses that meet more stringent emission standards.

The Third-Party Administrator shall use the SEP Offset Amount for up to 100% of the purchase price of a propane or natural gas powered school bus that is model year 2010 or newer to public school districts and public charter schools to replace a diesel school bus that is model year 2002 or older. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used for the direct cost of implementing the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions which contribute to the formation of ozone and may cause or exacerbate a number of respiratory diseases, including asthma. In addition, by encouraging less school bus idling, this SEP contributes to public awareness of environmental matters.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Railroad Commission of Texas SEP** and shall mail the contribution with a copy of the Agreed Order to:

Alternative Energy Division
Railroad Commission of Texas
P.O. Box 12967
Austin, Texas 78711-2967

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount due to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

EnAqua Solutions, LLC
Agreed Order - Attachment A

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality;" and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent, must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ.** Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.